

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN

In re: Utz, Ericka,
Debtor

Case No: 12-34693
Chapter 13
Hon. Daniel Opperman

**DEBTOR ERICKA UTZ'S OBJECTION TO CHAPTER 13 TRUSTEE'S
PROPOSED MODIFICATION TO CHAPTER 13 PLAN**

NOW COMES Debtor, Ericka Utz, by and through counsel, Gallagher Sharp, LLP, and hereby serves its notice of objection to the Chapter 13 Trustee's Proposed Modification to Chapter 13 Trustee (**Docket No. 67**). The basis for Debtor's objection is as follows:

1. The Chapter 13 Trustee has failed to reference Debtor's current Chapter 13 Plan. The Chapter 13 Plan referenced by the Chapter 13 Trustee (**Docket No. 42**) is a proposed Plan Modification filed by the Debtor that was ultimately denied by the Court without prejudice on July 24, 2014 (**Docket No. 56**).

2. The Chapter 13 Trustee's proposed modification proposes to change Debtor's payment frequency from semi-monthly to monthly. Debtor's Chapter 13 plan, as confirmed on March 5, 2013, provided for semi-monthly payments in the amount of \$1,350.67 for eighteen months, increased to semi-monthly payments of \$1,695.42 for forty two months. Currently, Debtor is making semi-monthly payments of \$1,695.42. (**Docket No. 34**).

3. The Trustee has failed to demonstrate a substantial change in circumstances to warrant modification of Debtor's Chapter 13 Plan pursuant to 13 U.S.C. § 1329(a). Debtor had previously disclosed the cyclical and unpredictable nature of her business on her Schedule J and the fact that does not necessarily result in regular net monthly income. (**Docket No. 1**). Further, the Trustee never objected to Debtor's calculation of business income and expenses and its cyclical nature prior confirmation of Debtor's Chapter 13 Plan. (**Docket Nos. 24, 32**).

4. The Chapter 13 Trustee's proposed modification is not feasible. The Chapter 13 Trustee relies on stale data provided in Debtor's 2015 Income Tax Return to support its proposed increase in Debtor's plan payments. From these returns, the Chapter 13 Trustee calculated that Debtor's business income is \$1,791.00 monthly. In fact, Debtor's businesses have each posted a net operating loss for 2016.

WHEREFORE, Debtor, Ericka Utz, requests that this Honorable Court REJECT and DENY the Chapter 13 Trustee's Proposed Modification to Plan (**Docket No. 67**) and order and other relief that this court deems just and equitable.

Respectfully submitted,

GALLAGHER SHARP, LLP

Dated: June 3, 2016

/s/ ERIK C. STEIN (P72172)

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**United States Bankruptcy Court
Eastern District of Michigan**

In re Ericka A Utz

Debtor(s)

Case No. **12-34693**
Chapter **13**

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2016, a copy of Debtor Ericka Utz's Objection to Chapter 13 Trustee's Proposed Modification to Chapter 13 Plan was served electronically or by regular United States mail to all interested parties, the Chapter 13 Trustee and all creditors listed below.

-NONE-

/s/ Erik C. Stein

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